

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

PAMELA M. CARDINALE, et al.,
Plaintiffs,

v.

GEORGIA PACIFIC CORPORATION, et
al.,
Defendants.

Case No. 15-cv-03385-VC

**AMENDED ORDER GRANTING
MOTION TO REMAND**

Re: Dkt. No. 26

The Cardinales' motion to remand is granted. Basco Drywall, a California corporation, is a non-diverse defendant in the state court action, and therefore removal was improper and this Court does not have subject matter jurisdiction.

The defendants' sole argument for removal is that on July 21, 2015, while appearing before Judge Seligman in Alameda County Superior Court, the Cardinales abandoned any claims against Basco Drywall – thus creating complete diversity – when their counsel confirmed with Judge Seligman and with defense counsel that the Cardinales were proceeding to trial against only three of the named defendants (which did not include Basco Drywall). But there is no indication that the Cardinales intended to dismiss their claims against Basco Drywall, and it is far from clear how counsel's confirmation that there were only three trial defendants affected the status of Basco Drywall as a party defendant. *Cf. Palmer v. Pneumo Abex, LLC*, No., 2010 WL 1029480, (N.D. Cal. Mar. 18, 2010). The absolute best that can be said of the defendants' argument is that there is some doubt about the status of Basco Drywall in the state court action. But "[w]here doubt regarding the right to removal exists, a case should be remanded to state court." *Matheson v. Progressive Specialty Ins. Co.*, 319 F.3d 1089, 1090 (9th Cir. 2003).

The case is remanded to the Alameda County Superior Court.

IT IS SO ORDERED.

Dated: August 17, 2015



VINCE CHHABRIA
United States District Judge

United States District Court
Northern District of California

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